IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 9TH APRIL 2007 / 19TH CHAITHRA 1929

Crl.MC.No. 1118 of 2007()

CC.70/1995 of JUDL. MAGISTRATE OF FIRST CLASS COURT, KODUNGALLUR
AGAINST THE JUDGEMENT/ORDER IN CRRO.640/1998 Dated 19/09/2006
CRIME NO.245/94 OF THE KODUNGALLUR POLICE STATION.

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PETITIONER: ACCUSED NO. 1 TO 3

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1. SANTHOSH, S/O.SADANANDAN, CHENDARA, METHALA VILLAGE DESOM.

2. RAJAN, S/O.THILAKAN, CHENDARA VEETTIL, METHALA VILLAGE DESOM.

3. RADHAKRISHNAN, S/O.SUBRAMANIYAN, CHENDARA, METHALA VILLAGE DESOM.

BY ADV. SRI.M.SHAJU PURUSHOTHAMAN
SRI.K.S.RAJESH

RESPONDENTS: COMPLAINANT

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1. STATE OF KERALA, REP. BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, REPRESENTING THE S.I. OF POLICE, KODUNGALLUR.

2. VIJAYAN, S/O.NARAYANAN, KONNAN PARAMBIL HOUSE, P.O.METHALA, KODUNGALLUR.

3. NARAYANAN, S/O.AYYAPPAN KONNAN PARAMBIL HOUSE, P.O.METHALA, KODUNGALLUR.

BY P.P. SRI.GIKKU JACOB.
BY ADV. SRI.P.SAMSUDIN

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 09/04/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NO. 1118 OF 2007

Dated this the 9th day of April, 2007

ORDER

The petitioners have been found guilty, convicted and sentenced in a prosecution for the offences punishable, inter alia, under Sec.326 of the IPC. The verdict of guilty, conviction and sentence have now become final with the order passed by this Court in Crl.R.P.No.640/98 dated 19/10/06.

2. The petitioners, at this belated hour, have come before this Court with this petition under Sec.482 of the Cr.P.C. The short prayer of the petitioners is that the parties having entered into a compromise and the victim having compounded the offences punishable, inter alia, under Sec.326 of the IPC, the composition may be accepted invoking the powers under Sec.482 of the Cr.P.C. and the sentence imposed on the petitioners may be set aside.

3. The request transparently is not maintainable.

Neither the decision in **B.S. Joshy v. State of Haryana** (AIR 2003 SC 1386) nor **Sabu George v. Home Secretary (**2007 (1) KLT 982) on which reliance is placed by the learned counsel for the petitioner can be of any help to the petitioners. The offence is not compoundable. The composition of such a non-compoundable offence is legally unsustainable. No benefit or advantage can be claimed from such composition of the non-compoundable offence by the petitioners. Both **B.S. Joshy v. State of Haryana** (AIR 2003 SC 1386) and **Sabu George v. Home Secretary (**2007 (1) KLT 982) were rendered under circumstances so totally and vitally different, that the petitioners cannot obviously claim any benefit from those decisions. The petitioners have not chosen so far to challenge the order passed by this Court in revision before the Supreme Court.

4. I do, in these circumstances, find the prayer to be totally unsustainable. This Crl.M.C. is, in these circumstances, dismissed.

Sd/-

(R. BASANT, JUDGE)

Nan/ //true copy// P.S. To Judge